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**Linda McCulloch**  
Superintendent

August 19, 2004

TO: District Superintendents / District Clerks  
County Superintendents

FROM: Linda McCulloch, State Superintendent

RE: URGENT -- Important Change in SB 424 Retirement Fund Provisions for  
Impact Aid Districts

On August 18, the Montana Supreme Court granted a preliminary injunction in *Indian Impact Schools of Montana v. State of Montana, et al*, No. 04-500. The injunction means that any district using the Impact Aid Fund (26) to pay salaries in FY05 may use the district's Retirement Fund (14) to pay the associated retirement costs. The injunction temporarily stops the SB 424 retirement provisions related to Federal Impact Aid moneys, pending the Supreme Court's ruling on the appeal filed earlier this summer. The timeline for the appeal to be addressed is not yet known.

The Supreme Court decision affects **ONLY** those districts that receive Federal Impact Aid funding. Other districts may disregard this message. The SB 424 retirement provisions regarding other Federal funds are still in effect for FY05.

Most districts adopted their retirement budgets assuming the provisions of SB 424 were effective for district staff paid from the Impact Aid Fund. Counties will meet on Monday, August 23 to set mill levies. It is very important for Impact Aid districts and counties to act immediately to ensure the money available at the county level is sufficient to cover the Impact Aid-funded staff retirement costs in FY05 based on the recent injunction.

**OPI suggests the following:**

Impact Aid Districts that HAVE adopted a Retirement Fund budget: 1) Contact the County Superintendent to report the amount of money needed to cover the retirement costs for district staff paid from the Impact Aid Fund; and 2) To establish budget authority for the additional retirement fund costs, consider having the trustees adopt a budget amendment under MCA 20-9-161(4), which allows an amendment for costs of "an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district." The budget amendment need not be adopted immediately, however, since the deadline is June 30, 2005.

Impact Aid Districts that HAVE NOT adopted a Retirement Fund budget: Build the retirement costs for district staff paid from the Impact Aid Fund into the final budget before adoption. Make sure the County Superintendent is aware the additional costs have already been included.

County Superintendents – Be sure to include the retirement costs for district staff paid from the Impact Aid Fund in your levy calculation for the countywide retirement fund. This action will provide enough funding in the countywide retirement fund to pay the districts their original budgets and any district budget amendments, as necessary. For joint districts, remember to report the proportional amount of the additional retirement costs to the non-located county as well.

I regret that this information has come to us so late in your budgeting process. However, this decision is good news for school districts and still allows time for counties to make the necessary funding adjustments for the year.

If you have additional questions about this memo, please contact Tal Redpath, (406) 444-3024 or [trpath@state.mt.us](mailto:trpath@state.mt.us). Thank you.